

STATE OF TENNESSEE

Office of the Attorney General



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REC'D TN  
REGULATORY AUTH.

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OFFICE OF THE  
EXECUTIVE SECRETARY  
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April 30, 1999

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

Re: United Telephone-Southeast, Inc. Tariff to Reflect Proposed Changes Under Price  
Regulation Plan  
Docket No. 98-00626

Dear Mr. Waddell:

I have enclosed an original and thirteen copies of Direct Testimony of Consumer Advocate Division witness Robert T. Buckner, Senior Regulatory Analyst in the above referenced matter. Copies are being furnished to counsel of record for interested parties.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Vincent Williams".

L. Vincent Williams  
Consumer Advocate

c: Counsel of record

Before the

TENNESSEE REGULATORY AUTHORITY

IN RE: UNITED TELEPHONE-SOUTHEAST, INC. TARIFF TO REFLECT  
PROPOSED CHANGES UNDER PRICE REGULATION PLAN  
DOCKET NO. 98-00626

\*\*\*\*\*

DIRECT TESTIMONY  
of  
ROBERT T. BUCKNER

\*\*\*\*\*

April 30, 1999

1   **Q.    Please state your name for the record.**

2    A.           My name is Robert T. Buckner ("Terry").

3

4   **Q.    By whom are you employed and what is your position?**

5    A.           I am employed by the Consumer Advocate Division ("CA") in  
6           the State of Tennessee Attorney General's Office as a Senior Regula-  
7           tory Analyst.

8

9   **Q.    How long have you been employed in the utility industry?**

10   A.           Approximately twenty years. Before my employment with the  
11           Attorney General, I was employed with the Tennessee Public Service  
12           Commission ("Commission") as a financial analyst for approximately  
13           six years. Prior to my employment with the Commission, I was  
14           employed by Telephone and Data Systems ("TDS") for eight years and  
15           the First Utility District of Knox County for three years.

16

17   **Q.    What is your educational background and what degrees do you**  
18           **hold?**

19   A.           I have a Bachelors degree in Business Administration from the  
20           University of Tennessee, Knoxville with a major in Accounting. I am  
21           also a Tennessee Certified Public Accountant and a member of the  
22           American Institute of Certified Public Accountants. Additional

1 education background with respect to my qualifications is provided in  
2 Exhibit No. 1 (Attachment A).

3

4 **Q. Would you briefly describe your responsibilities as a Regulatory**  
5 **Analyst since your employment with the CA?**

6 A. I prepared testimony and exhibits as an employee with the  
7 Commission before becoming a member of the CA. My  
8 responsibilities have not changed significantly since becoming  
9 employed with the CA.

10

11 **Q. What is the purpose of your testimony before the Tennessee**  
12 **Regulatory Authority (“TRA”)?**

13 A. The purpose of my testimony is to present the CA’s  
14 recommendations on the calculated amount to be used in changing  
15 United Telephone-Southeast (“UTSE”) Tariff under their Price  
16 Regulation Plan in Tennessee Regulatory Authority (“TRA”) Docket  
17 #98-00626. Also, my testimony will address the methodology set  
18 forth in the stipulation in TRA Docket #96-01423 and its concurrence  
19 with Tenn. Code Ann. § 65-5-209.

20

21

22

1 **Q. By what amount should UTSE be allowed to change their Tariff**  
2 **under the Price Regulation Plan?**

3 A. It is the CA's position that UTSE should reduce their Non-Basic  
4 Rates by an annual amount of \$351,935 in contrast to UTSE's  
5 proposal to increase rates \$2,072,472 for a total difference of  
6 \$2,457,406. See Attachment B, Line 10 of Exhibit No. 1. This  
7 amount is consistent with the CA's Statement of Issues filed with the  
8 TRA on December 1, 1998.

9  
10 **Q. Does this reduction include the imputation of Yellow Page**  
11 **revenues?**

12 A. No. UTSE has refused to identify the Yellow Page revenue that  
13 would have been imputed had the procedures that were in place in  
14 1995 were being followed today. Consequently, the impact of this  
15 alleged deficiency cannot be determined at this time.

16  
17 **Q. Does the methodology as set forth in the stipulation in TRA**  
18 **Docket #96-01423 conflict with the requirements of Tenn. Code**  
19 **Ann. § 65-5-209?**

20 A. No. The methodology does not conflict. Tenn. Code Ann. §  
21 65-5-209 establishes the limit in the amount of rates increases that may  
22 occur in any one year:

1           § 65-5-209(e) A price regulation plan shall  
2 maintain affordable basic and non-basic rates by  
3 **permitting a maximum annual adjustment that**  
4 **is capped at the lesser of one half (1/2) the**  
5 **percentage change in inflation for the United**  
6 **States using the gross domestic product-price**  
7 **index ("GDP-PI") from the preceding year as**  
8 **the measure of inflation, or the GDP-PI from**  
9 **the preceding year minus two (2) percentage**  
10 **points.** An incumbent local exchange telephone  
11 company may adjust its rates for basic local  
12 exchange telephone services or non-basic services  
13 only so long as its aggregate revenues for basic  
14 local exchange telephone services or non-basic  
15 services generated by such changes do not exceed  
16 the aggregate revenues generated by the maximum  
17 rates permitted by the price regulation plan.  
18 (Emphasis added.)  
19

20           The stipulation establishes the method of determining the  
21 cumulative percentage increases and the maximum cumulative  
22 increase allowed over a period of years assuming that rates are  
23 increased the maximum allowed each year in accordance with Tenn.  
24 Code Ann. § 65-5-209. The stipulation does not modify the provisions  
25 of the statute and does not allow UTSE to increase rates in any one  
26 year more than the amount otherwise allowed under the statute. The  
27 maximum increase in any one year continues to be limited by the  
28 statute.

29           Additionally, the stipulation as interpreted by UTSE does  
30 conflict with the Telecommunications Act of 1996 and the FCC order

1 in Docket #96-128. Section 276(b)(1)(B) of the Telecommunications  
2 Act (See Attachment E) directs the FCC to “discontinue the intrastate  
3 and interstate carrier access charge payphone service elements and  
4 payments.... and all intrastate and interstate payphone subsidies from  
5 basic exchange and exchange access revenue....” In its Docket #96-  
6 128, the FCC ordered such subsidies to be removed. UTSE has  
7 notified the TRA that its intrastate rates included an estimated subsidy  
8 for payphone operations of \$143,500. (See Attachment D.) UTSE  
9 reduced its access charges to remove the subsidy in April 1997. If the  
10 base rates in effect on June 6, 1995 are used in the computation of the  
11 SPI as proposed by UTSE, this subsidy is restored. Clearly, this is  
12 contrary to the FCC’s Orders.

13  
14 **Q. Does the methodology as adopted in the stipulation create an**  
15 **additional limit that was not specifically identified in Tenn. Code**  
16 **Ann. § 65-5-209?**

17 **A.** Yes, it could. If the mix in the type of services being provided  
18 were to change materially, the formula for establishing the maximum  
19 cumulative increase could prohibit a company from increasing rates in  
20 any one year to the full amount otherwise allowable under Tenn. Code  
21 Ann. § 65-5-209.

22 Attachment C to my testimony is an example of how the

1 stipulation could result in rates that are less than the maximum allowed  
2 under Tenn. Code Ann. § 65-5-209.

3 As shown on page 3 of the example, the adjustment allowed  
4 under Tenn. Code Ann. § 65-5-209 is a .8% reduction. The  
5 cumulative PRI as computed in accordance with the stipulation is  
6 100.29%. However, when calculated using the rates that produce the  
7 .8% reduction the SPI is 101.23%. Since under the stipulation the SPI  
8 cannot exceed the PRI, the proposed rates that produce a .8% reduction  
9 would exceed those allowed under the stipulation. In this example, the  
10 rates allowed under the stipulation would be lower than those allowed  
11 by Tenn. Code Ann. § 65-5-209.

12 This does not indicate that the stipulated methodology is faulty.  
13 The parties simply agreed to a methodology that may result in some  
14 instances where rates are lower than the maximum allowed otherwise  
15 under the statute. As a result, the stipulation serves as the limiting  
16 factor. This does not indicate that there is a conflict between the  
17 statute and the stipulation since the resulting rates are lower than the  
18 maximum allowed by the statute. I have been advised by counsel that  
19 while the parties may agree on a procedure that imposes an additional  
20 limit on the level of rates, the parties cannot implement a procedure  
21 that results in rates greater than those allowed by statute.  
22



1 **Q. What caused the stipulation methodology to result in a lower rate**  
2 **level in the example?**

3 A. The change in the mix of services. I point out that this is a  
4 hypothetical example that is being used for illustrative purposes and  
5 does not reflect an actual change in mix that has occurred.  
6

7 **Q. Does this conclude your testimony?**

8 A. Yes, it does.  
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Before the

TENNESSEE REGULATORY AUTHORITY

IN RE: UNITED TELEPHONE-SOUTHEAST, INC. TARIFF TO REFLECT  
PROPOSED CHANGES UNDER PRICE REGULATION PLAN

DOCKET NO. 98-00626

\*\*\*\*\*

EXHIBITS

\*\*\*\*\*

April 30, 1999

**Attachment A**

**Robert T. Buckner (Terry)**

**Senior Regulatory Analyst**

**Office of the Attorney General for the State of Tennessee**

**Consumer Advocate Division**

**Additional Education Background:**

Micro-Computer Training, **University of Wisconsin, Madison**

Cost Separations School, **United States Telephone Association, San Diego**

Rate Case School, **Arthur Andersen LLP, Chicago**

Telecommunications Conference, **University of Georgia, Athens**

NARUC Conference, **Michigan State University, Lansing**

Management Training Seminar, **Vanderbilt University**

Interstate Access Settlements, **National Exchange Carrier Association**

SEARUC Conferences, **Birmingham, AL. and Charleston, S.C.**

Telephone Plant Accounting Program, **Ernst and Young LLP, Atlanta**

# ATTACHMENT B

## Sprint United Telephone-Southeast, Inc. 1998 Annual Price Adjustment Filing

<u>Aggregate Non-Basic Revenues at Current Rates</u>		Aggregate Non-Basic Revenues @ 6/98 Rates
1	General Subscriber Service Tariff	\$30,697,976.40 a/
2	Access	9,103,137.60 b/
3	Directory Revenue	58,353.60 c/
4	Miscellaneous Revenues	4,132,349.88 d/
5	Total Non-Basic per Company [ L1+L2+L3+L4]	\$43,991,817.48
 <u>Computation of the Maximum Adjustment Factor</u>		
6	Inflation First QTR 1997 vs. First Qtr 1998	1.20% e/
7	Maximum Annual Adjustment Factor is the lesser of 1/2 Inflation Rate [ L6 X .5]	0.60%
8	or Inflation less 2% [L6-2%]	-0.80%
9	Maximum Adjustment Factor [L8]	<div style="border: 1px solid black; padding: 2px;">-0.80%</div> f/
10	Maximum Allowed Annual Adjustment to Aggregate Non-Basic Revenue [L5 X L9]	(\$351,934.54)
 <u>Aggregate Non-Basic Revenues Proposed Rates</u>		Aggregate Non-Basic Revenues @ UTSE Proposed Rates
11	General Subscriber Service Tariff	\$32,755,722.24 a/
12	Access	9,120,864.00 b/
13	Directory Revenue	58,353.60 c/
14	Miscellaneous Revenues	4,132,349.88 d/
15	Total Company Proposed Non-Basic Revenue [ L11+L12+L13+L14]	\$46,067,289.72
16	UTSE Proposed Increase in Aggregate Non-Basic Revenues [L15-L5]	\$2,075,472.24
17	Proposed Increase in Aggregate Non-Basic Revenues Exceeds Allowed Adjustment [L16-L10]	<div style="border: 1px solid black; padding: 2px;">\$2,427,406.78</div>
18	UTSE Proposed % Increase in 1998 Non-Basic Aggregate Revenues	<u>4.72%</u>

a/ Sprint UTSE Filing as revised 10/16/98 Non-Basic Service Price out page 12.

b/ Sprint UTSE Filing as revised 10/16/98 Non-Basic Service (Access) Price out page 2.

c/ Sprint UTSE Filing as revised 10/16/98 Non-Basic Service General Ledger [Directory compensation] page 1.

d/ Sprint UTSE Filing as revised 10/16/98 Non-Basic Service General Ledger [Miscellaneous] page 1.

e/ ATTACHMENT B of Sprint UTSE's Filing as revised 10/16/98.

f/ Tenn. Code Ann. 65-5-209

Hypothetical Example

Proposed changes for each of the three years fall under the maximum annual increase allowed under Tenn. Code Ann. 65-5-209. However in the third year the proposed rates exceed the maximum level established by the Stipulation accepted in 1996.

**Assumptions:**

	Year 1	Year 2	Year 3
Inflation (GDP-PI)	2.40%	2.70%	1.20%
Maximum Factor [Lesser of (1/2)X( GPI-PI) or( GDP-2%)]	0.40%	0.70%	-0.80%
Year 1 - rate reduction			
Year 2 - No rate change			
Year 3- Rate reduced inaccordance with Tenn. Code Ann 65-5-209.			

**Computed Results**

Computed Annual Increase	-1.00%	0.00%	-0.80%
Computed PRI per Stipulation	100.40%	101.10%	100.29%
Computed SPI per Stipulation	99.00%	99.00%	101.23%
SPI Exceeds the Cumulative PRI by			0.93%

Year 1

Comparison of SPI, PRI, and Annual Increase

Base/Current Rates				Proposed Rate			
Service	Volume	Initial Rates	Revenue	Volume	Proposed Rates	Revenue	
Service 1	1,000	\$1.000	\$1,000.00	1,000	\$0.9900	\$990.00	
Service 2	4,000	2.0000	8,000.00	4,000	\$1.9800	7,920.00	
Service 3	200	5.0000	1,000.00	200	\$4.9500	990.00	
Service 4	600	7.0000	4,200.00	600	\$6.9300	4,158.00	
Service 5	800	3.0000	2,400.00	800	\$2.9700	2,376.00	
Service 6	900	4.0000	3,600.00	900	\$3.9600	3,564.00	
			\$20,200.00				
				Aggregate Revenue		\$19,998.00	99.00% SPI
				PRI			100.40% PRI
				Annual % Change			-1.00%
				Cumulative Change			-1.00%

Year 1 proposed rate changes comply with both Tenn. Code Ann. 65-5-209 and the Stipulation.

Hypothetical Example  
Year 2

Comparison of proposed increase with annual limit per statute.

Service	Current Rates			Proposed Rate			
	Current Volumes	Current Rates	Revenue	Volume	Proposed Rates	Revenue	
Service 1	1,100	\$0.9900	\$1,089.00	1,100	\$1.2500	\$1,375.00	
Service 2	4,500	1.9800	8,910.00	4,500	2.2500	10,125.00	
Service 3	300	4.9500	1,485.00	300	4.9500	1,485.00	
Service 4	650	6.9300	4,504.50	650	6.9300	4,504.50	
Service 5	850	2.9700	2,524.50	850	2.9700	2,524.50	
Service 6	1,000	3.9600	3,960.00	1,000	2.4590	2,459.00	
Aggregate Revenues			\$22,473.00	Aggregate Revenues		\$22,473.00	100.00%
				Allowed annual Increase			0.70%
				Annual % Change			0.00%

Comparison of PRI with SPI.

Service	Base Rates			Proposed Rate			
	Current Volumes	Initial Rates	Revenue	Volume	Proposed Rates	Revenue	
Service 1	1,100	\$1.0000	\$1,100.00	1,100	\$1.2500	\$1,375.00	
Service 2	4,500	2.0000	9,000.00	4,500	2.2500	10,125.00	
Service 3	300	5.0000	1,500.00	300	4.9500	1,485.00	
Service 4	650	7.0000	4,550.00	650	6.9300	4,504.50	
Service 5	850	3.0000	2,550.00	850	2.9700	2,524.50	
Service 6	1,000	4.0000	4,000.00	1,000	2.4590	2,459.00	
Aggregate Revenues			\$22,700.00	Aggregate Revenues		\$22,473.00	99.0000% =SPI
				Cumulative % Change			-1.00%
							101.10% =PRI
				Allowed Cumulative % Change			1.10%

Year 2 proposed rate changes comply with both Tenn. Code Ann. 65-5-209 and the 1996 Stipulation.

Hypothetical Example  
Year 3

Comparison of proposed increase with annual limit per statute.

Service	Current Rates			Volume	Proposed Rate		
	Current Volumes	Current Rates	Revenue		Proposed Rates	Revenue	
Service 1	3,100	\$1.2500	\$3,875.00	3,100	\$1.5000	\$4,650.00	
Service 2	5,000	\$2.2500	11,250.00	5,000	\$2.3000	11,500.00	
Service 3	450	\$4.9500	2,227.50	450	\$4.9000	2,205.00	
Service 4	700	\$6.9300	4,851.00	700	\$6.9300	4,851.00	
Service 5	860	\$2.9700	2,554.20	860	\$2.9000	2,494.00	
Service 6	900	\$2.4590	2,213.10	900	\$1.1720	1,054.80	
Aggregate Revenues			\$26,970.80	Aggregate Revenues		\$26,754.80	99.20%
				Allowed annual Increase			-0.80%
				Annual % Change			-0.80%

Comparison of PRI with SPI.

Service	Current Volumes	Base Rates		Revenue	Volume	Proposed Rate		
		Current Rates	Initial Rates			Proposed Rates	Revenue	
Service 1	3,100	\$1.0000		\$3,100.00	3,100	\$1.5000	\$4,650.00	
Service 2	5,000	\$2.0000		10,000.00	5,000	\$2.3000	11,500.00	
Service 3	450	\$5.0000		2,250.00	450	\$4.9000	2,205.00	
Service 4	700	\$7.0000		4,900.00	700	\$6.9300	4,851.00	
Service 5	860	\$3.0000		2,580.00	860	\$2.9000	2,494.00	
Service 6	900	\$4.0000		3,600.00	900	\$1.1720	1,054.80	
Aggregate Revenues				\$26,430.00	Aggregate Revenues		\$26,754.80	101.23% =SPI
					Cumulative % Change			1.23%
					PRI			100.29% PRI
					Allowed Cumulative % Change			0.29%

Year 3 rate changes comply with the limit in Tenn. Code Ann. 65-5-209 but exceed the limit established by the 1996 Stipulation.

Computation of Cumulative Adjustment Limit

	First Qtr. 1995 vs First Qtr 1996	First Qtr. 1996 vs First Qtr 1997	First Qtr. 1997 vs First Qtr 1998
Inflation (GPI-PI)	2.40%	2.70%	1.20%
Calculation			
Step 1			
Base Rate of 100	100.00%	100.00%	100.00%
Step 2			
Plus: The lessor of:			
1/2 Inflation Rate	1.20%	1.35%	0.60%
or			
Inflation Rate - 2%	0.40%	0.70%	-0.80%
Annual Adjustment Factor Tenn. Code Ann. 65-5-209	0.40%	0.70%	-0.80%
	100.40%	100.70%	99.20%
Step 3			
Divided by 100%	1.004	1.007	0.992
Step 4			
Current PRI	100.00%	100.40%	101.10%
New PRI=Current PRI X Annual Adjustment Factor	100.4000%	101.1028%	100.2940%



Attachment D

May 27, 1997

**MEMORANDUM**

**TO:** Lynn Greer, Chairman  
Sara Kyle, Director  
Melvin Malone, Director

**FROM:** Chris Klein, Chief Utility Rate Division  
Mike Gaines, Telecommunications Manager

**SUBJECT:** Tariff filing by United Telephone Southeast (UTSE) to reduce the intrastate CCLC access rate to remove the subsidy to pay telephones. Tariff 97-206, Docket 97-00409

UTSE filed tariffs effective April 1, 1997, to remove payphone operations from its tariffs. At that time, UTSE estimated the subsidy to payphone operations to be immaterial and did not reduce rates. However, on May 19, 1997, UTSE submitted a revised subsidy estimate and filed this tariff to reduce access rates \$143,500, effective the same day.

The Staff reviewed this estimated amount, but has not audited the number because this matter will be addressed in the pending Payphone Docket 97-00409. Unless otherwise notified, this tariff will go into effect pending the outcome of Docket 97-00409.

cc: Docket File 97-00409

Telecommunications Act of 1996 Section 276

"SEC. 276. PROVISION OF PAYPHONE SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.--After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service--

"(1) shall not subsidize its payphone service directly or indirectly from its telephone exchange service operations or its exchange access operations; and

"(2) shall not prefer or discriminate in favor of its payphone service.

"(b) REGULATIONS.--

"(1) CONTENTS OF REGULATIONS.--In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, within 9 months after the date of enactment of the Telecommunications Act of 1996, the Commission shall take all actions necessary (including any reconsideration) to prescribe regulations that--

"(A) establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

**"(B) discontinue the intrastate and interstate carrier access charge payphone service elements and payments in effect on such date of enactment, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A); (Emphasis Added.)**

"(C) prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90-623) proceeding;

"(D) provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry interLATA calls from their payphones, unless the Commission determines in the rulemaking pursuant to this section that it is not in the public interest; and

"(E) provide for all payphone service providers to have the right to negotiate with the location provider on the location provider's selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with, the carriers that carry intraLATA calls from their payphones.

"(2) PUBLIC INTEREST TELEPHONES.--In the rulemaking conducted pursuant to paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

"(3) EXISTING CONTRACTS.--Nothing in this section shall affect any existing contracts

between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment of the Telecommunications Act of 1996.

"(c) STATE PREEMPTION.--To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.

"(d) DEFINITION.--As used in this section, the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone service in correctional institutions, and any ancillary services."

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE

IN RE: UNITED TELEPHONE-  
SOUTHEAST, INC. TARIFF TO  
REFLECT PROPOSED CHANGES  
UNDER PRICE REGULATION PLAN

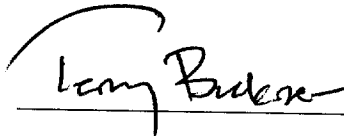
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AFFIDAVIT

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I, Robert T. Buckner, Senior Regulatory Analyst for the Consumer Advocate Division of the Attorney General's Office, hereby certify that the attached Direct Testimony represents my opinion in the above referenced case and the opinion of the Consumer Advocate Division.

  
\_\_\_\_\_

Sworn to and subscribed before me  
this 13<sup>th</sup> day of April, 1999.

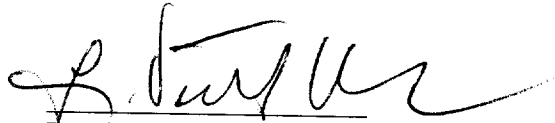
  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires on: Jan. 25, 2003

CERTIFICATE OF SERVICE

I hereby certify that this document was served on parties of record by U.S. Mail or by facsimile this 30<sup>th</sup> day of April, 1999.

James B. Wright, Esq.  
United Telephone-Southeast, Inc.  
14111 Capital Blvd.  
Wake Forest, NC 27587-5900



L. Vincent Williams